

Appl. No. 09/639,011
Amdu. dated August 20, 2004
Reply to Final Office Action of June 21 2004

REMARKS

This communication is responsive to Final Office Action of June 21, 2004 in which
5 all remaining claims were rejected under 35 U.S.C. 103(a) as being unpatentable over
Mousseau et al., U.S. Patent No. 6,438,585, in view of Eldridge et al., U.S. Patent No.
6,430,601.

The Applicant respectfully requests that the Examiner reconsider his reliance of the
10 Mousseau '585 patent which is a Continuation-in-Part and withdraw the final rejection. The
suggested grounds for the withdrawal are that any in-part subject matter included in the '585
patent and relied on by the Examiner should not be part of the record since the priority date
for the in-part matter is the filing date of the '585 patent. The filing date of the Mousseau '585
CIP patent is Jan 16, 2001 which is more than one year after the Applicant's priority date of
December 13, 1999.

15 The related U.S. Application Data section on the cover of the Mousseau '585 patent
states that all priority documents are Continuations-in-Part. "Continuation-in part of
Application No. 09/545,963, filed on April. 10 2000, and a Continuation-in-part of
Application No. 09/087,632, filed on May 29, 1998." (Mousseau '858 patent cover sheet
Related U.S. Application Data).

20 The Applicant is unable to find an application to this same inventive entity with serial
number 09/087,632. The Applicant has been able to find an Application with serial number
09/087,623 which issued as U.S. Patent 6,219,694.

Assuming, arguendo, that the cited reference, i.e. the '585 patent, is entitled to the '694
25 patent as a priority document, the Applicant is able on cursory inspection to make the
following observations. The '694 patent has only FIGS. 1-5 and accompanying 14 columns
of specification. The Mousseau '585 reference has 4 additional FIGS. 6-9 and the
accompanying specification includes added columns of disclosure 14-18. These added
drawings and columns of the specification, e.g. Col. 15, line 46 though Col. 16, line 60,